

REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed December 28, 2008. This is a full and timely response to that outstanding Office Action.

I. Present Status of Patent Application

Claims 1-37 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). These rejections are respectfully traversed.

II. Rejections Under 35 U.S.C. §102(b)

A. Claims 1-5

The Office Action rejects claims 1-5 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 recites:

1. A method comprising:
determining a power save status of a first station wherein said first station communicates via a shared-communications channel in accordance with a first modulation scheme; and
enabling transmission protection at a second station via said shared-communications channel wherein said enabling is dependent on said power save status.

(Emphasis added).

Applicant respectfully submits that claim 1 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **determining a power save status of a first station**. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose a step of determining if the station is in power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 1 is allowable over the cited references of record, dependent claims 2-5 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-5 contain all the features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002); *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-5 are patentable over *Awater*, the rejection of claims 2-5 should be withdrawn and the claims allowed.

B. Claims 6 and 7

The Office Action rejects claims 6 and 7 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 6 recites:

6. A method comprising:
receiving a first frame from a station via a shared-communications channel wherein said station communicates in accordance with a first modulation scheme;
determining whether the station is in power save mode; and
broadcasting an IEEE 802.11 Probe-Response frame via said shared-communications channel in response to said receiving;
wherein said IEEE 802.11 Probe-Response frame indicates that protection status is active.

(Emphasis added).

Applicant respectfully submits that claim 6 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 6 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **determining whether the station is in power save mode**. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose a step of determining if the station is in power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 6, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 6 is allowable over the cited references of record, dependent claim 7 (which depends from independent claim 6) is

allowable as a matter of law for at least the reason that dependent claim 7 contains all the features of independent claim 6. Therefore, since dependent claim 7 is patentable over *Awater*, the rejection to claim 7 should be withdrawn and the claim allowed.

C. Claims 8-15

The Office Action rejects claims 8-15 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 8 recites:

8. A method comprising alternately enabling and disabling transmission protection at a first station that communicates via a shared-communications channel in accordance with a first modulation scheme;
wherein said first modulation scheme is undetectable to a second station that communicates via said shared-communications channel in accordance with a second modulation scheme wherein the ***enabling or disabling of the transmission protection is associated with a determination of whether the first station is in a power save mode***; and wherein said first modulation scheme and said second modulation scheme are different from each other.

(Emphasis added).

Applicant respectfully submits that claim 8 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above.

Applicant respectfully submits that independent claim 8 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **enabling or disabling of the transmission protection is associated with a determination of whether the first station is in a power save mode**. Even if, assuming for the sake of argument,

Awater discloses a park mode in a Bluetooth radio, *Awater* fails to disclose enabling or disabling of the transmission protection is associated with a determination of whether the first station is in a power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 8, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 8 is allowable over the cited references of record, dependent claims 9-15 (which depend from independent claim 8) are allowable as a matter of law for at least the reason that dependent claims 9-15 contain all the features of independent claim 8. Therefore, since dependent claims 9-15 are patentable over *Awater*, the rejection to claims 9-15 should be withdrawn and the claims allowed.

D. Claims 16-19

The Office Action rejects claims 16-19 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 16 recites:

16. A method comprising:
transmitting a first frame comprising a duration field value to a first station
via a shared-communications channel in accordance with a first
modulation scheme;
receiving a second frame from a second station via said shared-
communications channel in accordance with a second modulation
scheme during a time interval defined by said duration field value;
determining whether the second station is in power save mode; and

receiving a third frame via said shared-communications channel in accordance with said first modulation scheme after said time interval;
wherein said first modulation scheme is undetectable to said second station; and
wherein said first modulation scheme and said second modulation scheme are different from each other.

(Emphasis added).

Applicant respectfully submits that claim 16 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 16 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **determining whether the second station is in power save mode**. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose the step of determining whether the second station is in power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 16, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 16 is allowable over the cited references of record, dependent claims 17-19 (which depend from independent claim 16) are allowable as a matter of law for at least the reason that dependent claims 17-19 contain all the features of independent claim 16. Therefore, since dependent claims 17-19 are patentable over *Awater*, the rejection to claims 17-19 should be withdrawn and the claims allowed.

E. Claims 20-23

The Office Action rejects claims 20-23 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 20 recites:

20. An apparatus comprising:
a processor for determining a power save status of a first station
wherein said first station communicates via a shared-communications channel in accordance with a first modulation scheme; and
a transmitter for enabling transmission protection at a second station via said shared-communications channel wherein said enabling is dependent on said power save status.

(Emphasis added).

Applicant respectfully submits that claim 20 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **a processor for determining a power save status of a first station**. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose a processor for performing the step of determining a power save status of a first station. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 20, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 20 is allowable over the cited references of record, dependent claims 21-23 (which depend from independent claim

20) are allowable as a matter of law for at least the reason that dependent claims 21-23 contain all the features of independent claim 20. Therefore, since dependent claims 21-23 are patentable over *Awater*, the rejection to claims 21-23 should be withdrawn and the claims allowed.

F. Claims 24-25

The Office Action rejects claims 24-25 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 24 recites:

24. An apparatus comprising:
a receiver for receiving a first frame from a station via a shared-communications channel wherein said station communicates in accordance with a first modulation scheme and **for determining whether the station is in power save mode**; and
a transmitter for broadcasting an IEEE 802.11 Probe-Response frame via said shared-communications channel in response to said receiving; wherein said IEEE 802.11 Probe-Response frame indicates that protection status is active.

(Emphasis added).

Applicant respectfully submits that claim 24 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 24 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **a receiver for determining whether the station is in power save mode**. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to

disclose a receiver for performing the step of determining whether the station is in power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 24, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 24 is allowable over the cited references of record, dependent claim 25 (which depends from independent claim 24) is allowable as a matter of law for at least the reason that dependent claim 25 contains all the features of independent claim 24. Therefore, since dependent claim 25 is patentable over *Awater*, the rejection to claim 25 should be withdrawn and the claim allowed.

G. Claims 26-33

The Office Action rejects claims 26-33 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 26 recites:

26. An apparatus comprising:
a receiver for receiving in accordance with a first modulation scheme and a second modulation scheme via a shared-communications channel; and
a transmitter for alternately enabling and disabling transmission protection at a first station responsive to determining that the first station is in power save mode, wherein the first station communicates via a shared-communications channel in accordance with a first modulation scheme;

wherein said first modulation scheme is undetectable to a second station that communicates via said shared-communications channel in accordance with a second modulation scheme; and wherein said first modulation scheme and said second modulation scheme are different from each other.

(Emphasis added).

Applicant respectfully submits that claim 26 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **a transmitter for alternately enabling and disabling transmission protection at a first station responsive to determining that the first station is in power save mode, wherein the first station communicates via a shared-communications channel in accordance with a first modulation scheme.** Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose a transmitter for alternately enabling and disabling transmission protection at a first station responsive to performing the step of determining that the first station is in power save mode, wherein the first station communicates via a shared-communications channel in accordance with a first modulation scheme. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 26, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 26 is allowable over the cited references of record, dependent claims 27-33 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that dependent claims 27-33 contain all the features of independent claim 26. Therefore, since dependent claims 27-

33 are patentable over *Awater*, the rejection to claims 27-33 should be withdrawn and the claims allowed.

H. Claims 34-37

The Office Action rejects claims 34-37 under 35 U.S.C. §102(b) as allegedly being anticipated by *Awater, et al.* (U.S. Patent No. 7,046,649). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 34 recites:

34. An apparatus comprising:
a transmitter for transmitting a first frame comprising a duration field value to a first station via a shared-communications channel in accordance with a first modulation scheme, and for **determining whether the second station is in power save mode**; and
a receiver for:
receiving a second frame from a second station via said shared-communications channel in accordance with a second modulation scheme during a time interval defined by said duration field value; and
receiving a third frame via said shared-communications channel in accordance with said first modulation scheme after said time interval;
wherein said first modulation scheme is undetectable to said second station; and
wherein said first modulation scheme and said second modulation scheme are different from each other.

(Emphasis added).

Applicant respectfully submits that claim 34 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. Applicant respectfully submits that independent claim 34 is allowable for at least the reason that *Awater* does not disclose, teach, or suggest at least **determining whether**

the second station is in power save mode. Even if, assuming for the sake of argument, *Awater* discloses a park mode in a Bluetooth radio, *Awater* fails to disclose the step of determining whether the second station is in power save mode. There is no determination step in *Awater*. Therefore, *Awater* does not anticipate independent claim 34, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 34 is allowable over the cited references of record, dependent claims 35-37 (which depend from independent claim 34) are allowable as a matter of law for at least the reason that dependent claims 35-37 contain all the features of independent claim 34. Therefore, since dependent claims 35-37 are patentable over *Awater*, the rejection to claims 35-37 should be withdrawn and the claims allowed.

III. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-37 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 50-0835.

Respectfully submitted,

/BAB/

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